

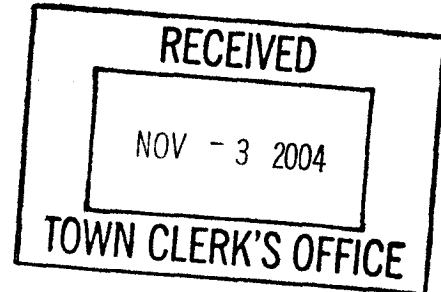
# TOWN OF NEW WINDSOR

## ZONING BOARD OF APPEALS

Regular Session

Date: NOVEMBER 8, 2004

### AGENDA



7:30 p.m. – Roll Call

Motion to accept minutes of October 25, 2004 meetings as written.

### PRELIMINARY MEETINGS:

1. **TOPO REALTY (GREG SHAW) (04-73) (PB# 04-26)** Request for 11 spaces of off street parking located at 42 Windsor Highway in a C zone. (10-2-7)
2. **HALMAR CONTRACTING (04-69)** Request for 2 ft. Maximum Building Height for existing 8 ft. chain link fence located between building and street (300-11-C-1-C) at 1224 River Road in a PI zone (9-1-76)
3. **MICHAEL VELA (04-70)** Request for a 6ft variance for a proposed attached garage (R-4 Use Bulk Tables E-6) located at 10 Doral Drive in an R-4 zone. (19-4-46)
4. **ALTON & ALICE PETERSON (04-71)** Request for a 27ft side yard variance and a 34.7ft total side yard variance for a proposed addition located at 53 Riley Road in an R-3 zone. (67-1-3)
5. **JOHN LEE (04-72)** Request for a 21ft variance for a proposed attached rear deck with attached gazebo located at 2817 Cherry Tree Way in an R-3 zone. (77-2-5)

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
NOVEMBER 8, 2004

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
KATHLEEN LOCEY  
KIMBERLY GANN

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

ABSENT: LEN MCDONALD  
MICHAEL REIS  
STEPHEN RIVERA  
JOSEPH MINUTA

MYRA MASON  
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call the regular meeting of the  
New Windsor Zoning Board of Appeals for November 8,  
2004 to order.

APPROVAL OF MINUTES DATED OCTOBER 25, 2004

MR. KANE: Motion to accept the minutes of October 25,  
2004 as written.

MS. GANN: So moved.

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MS. LOCEY: So moved.

MS. GANN: Second it.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

TOPO REALTY (04-73)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. KANE: I'd like to explain to you in the Town of New Windsor that what they do is they have a preliminary meeting and then everything with the Zoning Board of Appeals has to be done in a public hearing. So doing a preliminary does you a chance to give your information to us and if you're missing something, we get a chance to say you need to bring this to the public hearing and that kind of stuff. A lot of towns you go in cold. So you'll repeat this at the public hearing if you're here tonight for a preliminary.

Topo Reality is a request for 11 spaces of off-street parking located at 42 Windsor Highway in a C zone.

MR. SHAW: Thank you. For the record and for the benefit of the alternate members, my name is Greg Shaw, I'm with Shaw Engineering representing Topo Realty LLC. The parcel that's before you is located on west side of Windsor Highway just a little bit south of Fern Avenue. It used to be the original Mid Hudson Beauty Supply building. It's presently now vacant and it's an 8,200 square feet building which is located in the C zone on a 0.92 acre parcel. For the past year at least the property's pretty much been vacant. The map that's in front of you has two plans on it, one is the existing conditions plan that's in the lower portion of the plan that's the site as it presently exists, it consists of 13 spaces in the front of the building itself, macadam driveway on the side then the dirt and gravel parking area in the back. And in its present use, actually its former use was for some retail and some warehouse in the back. What we're proposing to do is to convert the building into a professional medical office with

possibly some retail space. We're not proposing any additions to the structure whatsoever, we just wish to utilize the 8,200 square feet structure for that use. If you look at the upper portion of the plan, again you'll see the site, you'll see the 8,200 square foot building and you'll see the proposed site improvements which we're indicating on the plan that's 15 spaces in the front with handicapped parking and we're providing just bear with me, 29 spaces in the back. We have obtained a grading easement from the adjacent neighbor to allow us to maximize the number of spaces we can possibly fit on site, we cannot get anymore. So we're here before you first and foremost for a parking variance, according to your zoning ordinance we're obligated to provide 55 spaces and we're providing 44. In addition to that, you'll note on the plan and also on the variance application which has been submitted there are some existing non-conforming conditions, that being minimum lot area, minimum lot width and minimum side yard, one minimum side yard both and the building height. Trust me, we have not changed the building since it was built, the zoning has changed. So what we'd like to do is incorporate those non-conforming conditions into the application and ask the board to vote on all the variances, this way it brings the parcel up to zoning and if we're successful in getting the variance then we'll move on to the planning board.

MR. KANE: Mike, on the preliminary meeting we have just a request for 11 spaces off-street parking?

MR. BABCOCK: Yes.

MR. KANE: You have a denial for the other things or it's already added in?

MR. BABCOCK: Actually, it's on his plan but it's not in the denial, just the parking is in the denial.

MR. KANE: So how do we get that on the agenda?

MR. BABCOCK: I can do that.

MR. KANE: You'll take care of that and put it on?

MR. BABCOCK: I call them pre-existing, non-conforming.

MR. KANE: But we want to square it out so everything's cleared up so you have--

MR. BABCOCK: Myra told me to do that and I said it wasn't necessary so that's my fault.

MR. KANE: That's why you're not Myra.

MR. BABCOCK: I'll take care of that before the public hearing.

MR. KANE: Thank you. So we have five pre-existing?

MR. SHAW: Non-conforming conditions.

MR. KANE: To get on record and then the one variance for 11 parking spaces. And it's going to be a medical building?

MR. SHAW: Yes, it's going to be a medical facility, with the primary entrance in the rear of the building, the medical facility may occupy the entire 8,200 square feet. Maybe they're not going to use it all, it will maybe a small retail space in the front, that has not been decided yet. That has to be worked out with the architectural plans, that's why seeing it's the same use group, we put both office and retail but it will be a medical facility for one of the local doctors practicing in the Newburgh area.

MR. KANE: For the public hearing at any time you don't feel that the parking that you're proposing here for this building right now would be insufficient, you

don't believe it will be all used in one shot?

MR. SHAW: No, presently right now the practice, and understand they'll probably bring on another doctor but right now the medical practice in Newburgh has ten spaces so this is going to be a Godsend, 44 spaces, they're not going to buy this piece of property and rehab and invest as much money as they're going into it and have a shortage on parking.

MR. KANE: Okay, not going to be cutting down any trees? I see it's a gravel dirt parking area in the back, cutting down any trees or substantial vegetation?

MR. SHAW: There are going to be some trees that are going to be cut down, again, we wanted to maximize the number of parking and if you ride by the site, you'll see that there is a row of trees perpendicular to Windsor Highway as you go from the front of the property to the back, some of those are going to be removed both on the left side and the right-hand side.

MR. KANE: And the new macadam going in the back that's not going to be an issue with developmental coverage?

MR. SHAW: No.

MR. KANE: You're looking at its saying here 75 percent is what you're looking at right now?

MR. SHAW: Correct.

MR. KANE: I have no further questions. What about you guys?

MS. GANN: I don't.

MS. LOCEY: No.

MR. KANE: For the public hearing, Greg, if you could

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just bring some photos?

MR. SHAW: Absolutely.

MR. KANE: I'll accept a motion.

MS. LOCEY: I'll offer a motion to bring, to schedule a public hearing for the application by Topo Realty for 11 spaces of off-street parking located at 42 Windsor Highway in a C zone and also for five pre-existing non-conforming variances.

MS. GANN: I'll second the motion.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE



HALMAR CONTRACTING (04-69)

Daniel Bloom, Esq. appeared before the board for this proposal.

MR. KANE: Request for 2 ft. maximum building height for existing 8 ft. chain link fence located between building and street at 1224 River Road.

MR. BLOOM: Good evening, Mr. Chairman and members of the board, my name is Dan Bloom and I represent the applicant, Halmar Contracting and this application involves an existing chain link fence down on River Road around what used to be, I used to consider it the Naval Reserve building down there and it became Army Reserve and what have you. It's now owned by Halmar Contracting, has been since 1995. When they purchased the property, the fence which of which we're addressing at the present time existed and as far as we can determine existed for an extended period of time prior to 1995 but probably not long enough to be considered a pre-existing, non-conforming use. Thus, my client's in the process of selling the property and when the necessary municipal search was done, it was determined that there was an open building permit apparently for the fence and when we, investigated further, my client determined when he checked with the building inspector's office that in fact the fence is two feet higher than the zoning ordinance permits and the fence itself is 7 feet and has a one foot extension above it, which is barbed wire and so now they're faced with the specter of removing the fence in its entirety or cutting it down. And the problem we respectfully submit to the board is that if we reduce the height of the fence it very substantially adversely impacts upon its security function and the area in which it's located, as you know, is a PI area, it's pretty much industry and all commercial and security is a key issue.

MR. KANE: Right next door there's a lot of tanks.

MR. BLOOM: They do, lot of the properties in the area all have fences. My client believes that they appear to be the same height, he hasn't taken a tape measure. They may be pre-existing, we don't know but in fact the suggestion is that if we're alluding to do this that it will not adversely impact upon the rest of the neighborhood, so to speak.

MR. KANE: Any complaints formally or informally about the fence that you're aware of?

MR. BLOOM: None that we're aware of, no.

MR. KANE: I have the pictures and I can see River Road over here but in any area does the fence block the vision of motorists traveling down River Road?

MR. BLOOM: I can't personally speak to that, Mr. Chairman, but before the meeting I will certainly go down and look at it myself.

MR. KANE: I don't think there's anything in the area but formally for the public hearing, I would need you to answer that.

MR. BLOOM: We'll do that absolutely.

MR. KANE: So we believe we have a 7 foot fence with about a one foot barbed wire addition on top of it?

MR. BLOOM: Correct.

MR. KANE: And we're looking, and the fence has been pre-existing since approximately 1995?

MR. BLOOM: Well, he bought it in 1995, it was there long before that and unless it's a different fence but I don't think it is, Mr. Chairman, I was in the Army

Reserves in that building in 1965, so I think it's been there a very long time.

MR. KANE: You're dating yourself.

MR. BLOOM: I know it's obvious.

MR. KANE: Mike?

MR. BLOOM: I believe it was the same fence.

MR. KANE: Is there an open permit on that?

MR. BABCOCK: No, actually, this, it came up as a violation, I'm not sure why it came up.

MR. BLOOM: It came up on a violation search, we were selling the property, they ordered the title, they did a violation search and it came up that way.

MR. KANE: But there was no open permit on it.

MR. BLOOM: Well, it was referred to, yes, let me refer if I may.

MR. KANE: If there's something open we should get that taken care of.

MR. BABCOCK: Well, actually, apparently they issued the permit, Mr. Chairman, and realized it cause there's a note on the permit that needs ZBA approval or need to--oh, now they've got a note here that they need to remove the top of the fence so at some point in time maybe they thought about removing.

MR. KANE: When was the permit issued, Mike?

MR. BLOOM: According to my note here 1991, is that correct, Mike?

MR. BABCOCK: Well, we have one on July 26, 2004 so they come in to try to straighten it out.

MR. KANE: That's the permit that you have?

MR. BABCOCK: They were gonna cut off the top of the fence so they got a permit then they decided to go for the variance, it says and/or variance.

MR. KANE: Okay.

MR. BABCOCK: They must of renewed it, yeah, there's 1991 there was a building permit for a 6 foot chain link fence.

MR. KANE: Any other questions ladies?

MS. GANN: No.

MS. LOCEY: No.

MR. KANE: I'll take a motion.

MS. GANN: I'd like to offer a motion, Mr. Chairman.

MR. KANE: I'll accept it.

MS. GANN: Motion for Halmar Contracting request for two foot maximum building height for existing chain link fence located between the building and street at 1224 River Road in a PI zone for public hearing.

MS. GANN: I'll second that.

MR. KANE: One question, the verbiage two foot maximum building height, is that correct for a fence? I'm a little leery with that because it goes to the property and if you give him the two foot maximum building height.

MR. BABCOCK: This is a generic form, Mr. Chairman, and the only thing that we have with anything with height is building height but up on the disapproval it says existing 7 foot chain link fence with additional one foot of barbed wire for a total of eight foot not permitted between the building and the road.

MR. KANE: When we go for a public hearing we're going to need to remember to make it specific to the fence only and not to any other building that's on the property, I feel a little bit more comfortable with that. We'll take a vote.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE

MICHAEL VELA (04-70)

Mr. Michael Vela appeared before the board for this proposal.

MR. KANE: Request for a 6 ft. variance for a proposed attached garage located at 10 Doral Drive.

MR. KANE: Tell us what you want to do, sir.

MR. VELA: We're between Doral and Clintonwood, Doral's a private road which is very difficult in the winter and Clintonwood is a public road behind us, we have a driveway on Clintonwood and what we'd like to do is put a garage off the back. When they built the house apparently when it was built years ago it was built crooked on the property line so actually I've been told that the corner of my garage is actually I was told it's not far enough off the property line and we have a tree lined fence separation between our house and our neighbor's, driveway's been there since we bought the house in '91, I believe so what we'd like to do is get the variance so we can put a garage in the back so we have access to the public road in the winter so we can get out.

MR. KANE: So what we're saying here, Michael, is they're here because we're considering this two front yards front and back on Clintonwood and Doral Drive?

MR. BABCOCK: Yes.

MR. KANE: And are you proposing a driveway from the proposed garage?

MR. VELA: Well, the driveway's there, it's existing, it's tied into the road off of Clintonwood, that driveway's there.

MR. KANE: Cause it's not shown on the diagram that I

have here.

MR. BABCOCK: You're going to have a driveway off Doral and Clintonwood?

MR. VELA: They've been there actually when we bought the house that was there as well.

MS. LOCEY: And the pictures are of the back of the house where the shed is?

MR. VELA: Yes, I'm not much of an architect, yeah, that line is where it would go and then the tree line that would come off of there and then yeah, that's, so that one of the question was that we won't affect any of the trees or anything, we're going to dig up the driveway to put the footings in, obviously.

MR. BABCOCK: If we were to consider it a rear yard which by all means this is the rear of his house the requirement would be 40 feet and he still only has 39 so he'd be here tonight in any case.

MR. KANE: But we don't have to consider this being an extension in the front yard in the front of the house?

MR. BABCOCK: What we're saying the front yard we're saying it's a front yard and will, the requirement's 45 feet and he's proposing 39, so he needs a variance of 6 foot because we're calling it a front yard, if we call it a rear yard, he would need a variance of one foot.

MR. KANE: Is the garage going to be attached to the house?

MR. VELA: Yes.

MR. KANE: It's part of the house?

MR. VELA: Yes.

MR. KANE: I got you, it's not going to be a separate building?

MR. VELA: No.

MR. KANE: Stand corrected.

MR. VELA: Just going to raise the roof and build it off the back piece.

MS. GANN: Are you going to move the shed that's already there?

MR. VELA: Yes, that's just about moved itself, that whole right wall is done so we're going to take that down.

MR. KANE: The garage itself looks like it's going to come out 17 feet from the front of the house, is that correct?

MR. VELA: From the existing structure, yes.

MR. KANE: And 17 feet is enough for your vehicle?

MR. VELA: Yes, the contractor said 15 feet, I wanted two more feet.

MR. KANE: Where that 17 feet ends, where the proposed garage is on the front of the house, does that extend further than other homes in your neighborhood?

MR. VELA: Yes, I understand, if you include the decks, no.

MR. KANE: Some people have decks?

MR. VELA: Yes.



MR. KANE: So you won't be the only building on that street that's sticking out?

MR. VELA: No, no, no.

MR. KANE: Okay and the 14 x 17 is the minimum that you feel that you can get this done with as far as your garage size?

MR. VELA: Yes, that's what I was told.

MR. KANE: Because you have to get the minimum variance that you want. This picture right here, this is from the street, this is the driveway in the back?

MR. VELA: Yes.

MR. KANE: This is where the garage is going to go?

MR. VELA: Yes.

MR. KANE: I'll ask the question, you'll have the same questions on the public hearing, you're not going to be cutting down any trees, substantial vegetation in the building of it?

MR. VELA: No.

MR. KANE: It's already macadam there?

MR. VELA: Correct.

MR. KANE: Not going to create any water hazard or runoffs with the building of it?

MR. VELA: No.

MR. KANE: Any questions?

MS. GANN: No.

MS. LOCEY: No.

MR. KANE: I'll accept a motion.

MS. LOCEY: I'll offer a motion to schedule a public hearing for the application of Michael Vela for his request for 6 foot variance for proposed attached garage located at 10 Doral Drive in an R-4 zone.

MS. GANN: Second it.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE

ALTON & ALICE PETERSON (04-71)

Mr. Peggy Johnson appeared before the board for this proposal.

MR. KANE: Request for a 27 ft. side yard variance and a 34.7 ft. total side yard variance for a proposed addition located at 53 Riley Road in an R-3 zone. State your name for the record.

MS. JOHNSON: I'm Peggy Johnson, I'm the daughter. That's my mom, Alice Peterson right here.

MR. KANE: Tell us what you want to do.

MS. JOHNSON: I just want to build a room, they're getting up in age, I want to build a room onto the side of the house so I can go out and live with them cause they're going to need to be taken care of.

MR. KANE: So you want to put an addition on the home, a bedroom on the home? Going to be knocking down any trees?

MS. JOHNSON: No trees, nothing, it's all clear.

MR. KANE: Not creating any water hazards or runoffs?

MS. JOHNSON: No.

MR. KANE: Any easements going on in that area?

MS. JOHNSON: No.

MR. KANE: Are you on Town sewer and water?

MS. JOHNSON: Yes.

MR. KANE: More importantly, the electric meter and all that you're not going to have an additional meter, just

one meter for the house?

MS. JOHNSON: One meter.

MR. KANE: No intent to turn this into a two-family home?

MS. JOHNSON: No, just a one family home, I just want to put a bedroom so I can go in and take care of my parents.

MR. KANE: The shaded area over here is where you want to right over here is where we're going to put that?

MS. JOHNSON: Yes, going to be on the side, I've got pictures right here, it's going to be over here.

MR. KANE: How big is this going to be?

MS. JOHNSON: I think it's like 27 x 25.

MR. KANE: Is it going to run the width of the house?

MS. JOHNSON: Yeah, the width of it, it's going to run all the way back to here and then go out, it's going to run the width of the house, yeah.

MR. BABCOCK: I think we have it as 20 x 24.

MS. JOHNSON: Yeah, I said 25 but yeah.

MS. GANN: So just a bedroom?

MS. JOHNSON: Just a bedroom.

MS. GANN: Bathroom attached?

MS. JOHNSON: Like a master bedroom, there's going to be a master bathroom.

MR. KANE: So here we have a required of 40 with a total of 80 on both sides, right, Mike?

MR. BABCOCK: Right.

MR. KANE: That's going to be a single floor room?

MS. JOHNSON: Yes, single floor, I don't want to be climbing any stairs.

MR. KANE: The peak going to match the top of the house too?

MS. JOHNSON: Yes, everything will be just the same.

MR. KANE: Will that keep the house similar in size to other homes that are in the neighborhood?

MS. JOHNSON: Oh, they're a lot bigger. Right now, it's only a little one bedroom house, that's all it is.

MR. KANE: I have no further questions. Ladies?

MS. GANN: No questions.

MS. LOCEY: No questions.

MR. KANE: I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing for the application of Alton and Alice Peterson for their request for 27 foot side yard variance and a 34.7 foot total side yard variance for a proposed addition located on 53 Riley Road.

MS. GANN: Second it.

ROLL CALL

MS. LOCEY                      AYE

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MS. GANN  
MR. KANE

AYE  
AYE

JOHN LEE (04-72)

Mr. John Lee appeared before the board for this proposal.

MR. KANE: Request for a 21 ft. variance for a proposed attached rear deck with attached gazebo located at 2817 Cherry Tree Way in an R-3 zone.

MR. LEE: Hi, good evening, how are you?

MR. KANE: Tell us what you want to do, sir.

MR. LEE: My name is John Lee and we want to put a 17 x 20 deck with a gazebo, about a ten foot gazebo in diameter attached to it with four steps going up. The gazebo will have a matching shingle matching to our roof and it will be held up by the standard colonial posts and the lattice siding and it will be made out of composite material.

MR. KANE: The deck itself, how high off the ground?

MR. LEE: It's probably about I would say about two feet off the ground.

MR. KANE: Is there a door coming out from the home at this point to where the deck is going to be?

MR. LEE: Yes, it's going to be attached to the entire house and it will be attached to the base sliders so we'll open the base slider and we go out to the deck.

MR. KANE: So it would also be of a safety value having the deck there for that door?

MR. LEE: Yes, exactly, absolutely.

MR. KANE: Will you be cutting down any trees or substantial, removing any substantial shrubbery?

MR. LEE: No.

MR. KANE: Create any water hazards or runoffs?

MR. LEE: No.

MR. KANE: Is the deck itself similar in size to other decks? You don't feel the deck is abnormally big at all?

MR. LEE: No. In fact, there's about three houses down on the other side behind us, there's a person who has a 20 x 20 deck, which is actually bigger than ours and similarly on the other side there's someone who has a 16 x 16 deck.

MR. KANE: So you feel what you're putting maintains the character of the neighborhood?

MR. LEE: Absolutely.

MR. KANE: And no easements running through that? You're on Town water and sewer?

MR. LEE: Yes.

MR. KANE: Okay, I have no further questions at this point.

MS. GANN: No questions.

MS. LOCEY: No questions.

MR. KANE: I'll accept a motion.

MS. GANN: I'd like to offer a motion, Mr. Chairman, to schedule a public hearing for John Lee for request for 21 foot variance for a proposed attached rear deck with attached gazebo located at 2017 Cherry Tree Way in the



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R-3 zone.

MS. LOCEY: I'll second that motion.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn?

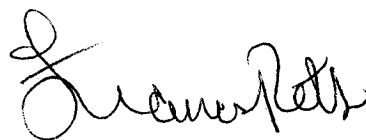
MS. LOCEY: So moved.

MS. GANN: Second it.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE

Respectfully Submitted By:



Frances Roth  
Stenographer

11/10/04